

REMARKS

The present Amendment is in response to the Office Action dated May 31, 2011. Claims 1, 3-5, and 12 have been amended, claims 2, 8, and 14 have been canceled, and no new claims have been added herein. Therefore, claims 1, 3-5, 7, 12, 13, and 15 are now pending in the present application. Support for all claim amendments can be found in Applicants' originally filed specification and drawings, and neither the specification nor the drawings have presently been amended herein. As such, no new matter has been added. Applicants set forth the following remarks relating to the Office Action below.

In the Action, the Examiner objected to the drawings under 37 C.F.R. 1.83(a) due to the recitation of "at least one shaft" and "at least one prong" within the claims. According to the Examiner, these recitations contemplate an implant having a plurality of shafts or an apparatus comprising more than two prongs, which are not shown in the drawings. While reserving the right to rebut these assertions at a later time, Applicants have amended the claims to recite "a shaft" and "a prong". Thus, Applicants respectfully request that the Examiner withdraw the drawing rejections.

Further in the Action, the Examiner rejected claims 1-5, 7, 8, and 12-15 under 35 U.S.C. § 112, second paragraph, as being indefinite for a variety of reasons. First, the Examiner argued that the recitation of an apparatus or apparatuses in the preambles of independent claims 1 and 12, respectively, and the recitation of "the implant" in the bodies of these claims does not clearly define the scope of what is claimed.

The Examiner also rejected claim 1 for claiming more than one shaft and for lacking antecedent basis for the feature "the at least two pins." The Examiner further rejected claim 12 as

well, arguing that the recitation of the "respective orientation" of the pins and the longitudinal axis of the shaft in claim 12 lacks a frame of reference, that claim 12 establishes a definite arrangement for the pins by reciting that they are "coupled to the shaft distal end and extending in a same direction parallel to one another and perpendicular to a plane passing through the longitudinal axis," and that claim 12 omits a structural cooperative relationship by reciting that the prongs and the pins are both on the distal end of the shaft without clarification as to where these features are relative to one another.

As to the establishment of a definite arrangement for the pins in claim 12, Applicants submit that although in all cases the pins are perpendicular to a plane passing through the longitudinal axis, the pins can nonetheless be located different distances from the axis; simply being perpendicular does not establish a specific arrangement. Applicants respectfully assert these rejections are now moot in light of Applicants' amendments to claims 1 and 12. Applicants stress that the addition of the recitation, "wherein the position of the longitudinal axis of the shaft of the apparatus relative to the pair of pins of the apparatus," in claim 12 is amply supported by at least paragraph [0130] of the specification, and that the recitation of the attachment of the pins to the prongs appropriately clarifies the relationship of the prongs and the pins with respect to the distal end of the shaft.

Still further in the Action, the Examiner rejected claims 2, 4, and 14 under 35 U.S.C. § 112, fourth paragraph, as being improper dependent claims for failing to further limit the subject matter of the claim from which they depend. Applicants have canceled claim 2 and have amended claim 4 to recite

language similar to claim 3, which was not rejected under § 112, fourth paragraph. In view of these claim amendments, Applicants respectfully submit that the Examiner's rejections under § 112, fourth paragraph, are also moot and request that these rejections be withdrawn.

Still further in the Action, the Examiner again rejected claims 1-5, 7, 8, 14, and 15 under 35 U.S.C. § 102(b) as in the previous Action but asserted that these claims are anticipated by U.S. Pat. No. 1,425,845 to Foster ("Foster"). In response, Applicants have canceled claim 8 and amended claim 1 to recite, in part, that the apparatus comprises "two prongs, at least one of the two prongs forming a monolithic structure with the shaft and extending away from the longitudinal axis of the shaft . . . , a first of the two pins being located on the longitudinal axis of the shaft and a second of the two pins being located on the at least one of the two prongs extending away from the longitudinal axis of the shaft." Thus, the prong that is extending away from the longitudinal axis in amended claim 1 has a fixed position. In contrast, Foster discloses a flange and further discloses, in exhaustive fashion, that its comparable prong is a swinging arm and nowhere discloses a fixed arm or prong. Therefore, Applicants respectfully submit that Foster does not anticipate claim 1 and request that the 102(b) rejection be withdrawn.

Still further in the Action, the Examiner rejected claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Foster in view of U.S. Pat. No. 4,566,466 to Ripple ("Ripple"). The Examiner argued that Foster discloses the claimed invention except for "a set of apparatuses." The Examiner then argued that Ripple taught that tools for specific procedures are provided in a set of apparatuses for the user and

further that the set allows the user to select the tool matching the required dimension. However, Foster teaches that the "improved wrench is operated by a single workman and with a quick adjustment of the swinging arm from one set of holes to another." Accordingly, Foster envisions a moveable arm and thus teaches away from any combination with Ripple or any other inventions envisioning sets of tools from which different tools of the set may be selected to match a required dimension. Nonetheless we have also amended claim 12 to incorporate the feature of a monolithic connection between the prong extending away from the longitudinal axis and the shaft as in amended claim 1. As discussed with respect to claim 1, Foster does not teach these features and thus a combination of these references does not teach all of the features of claim 12. Accordingly, Applicants respectfully request that the Examiner withdraw these obviousness rejections.

Although some claims may not have been discussed fully herein, Applicants respectfully submit that such claims are also allowable by virtue of their dependence from independent claims 1 and 12, or an intervening claim depending from this claim. Moreover, such claims may in and of themselves include subject matter even more clearly not taught by the prior art of record and Applicants reserve the right to argue such at a later date, if necessary.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at

(908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 31, 2011

Respectfully submitted,
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